

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 341

HOUSE BILL 2611

AN ACT

AMENDING TITLE 49, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1073; PROVIDING FOR THE TRANSFER OF MONIES; RELATING TO STORAGE TANKS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 49, chapter 6, article 4, Arizona Revised Statutes,
3 is amended by adding section 49-1073, to read:

4 49-1073. Municipal tank closure and corrective action program;
5 account

6 A. THE MUNICIPAL TANK CLOSURE AND CORRECTIVE ACTION PROGRAM ACCOUNT
7 IS ESTABLISHED WITHIN THE DEPARTMENT. MONIES IN THE ACCOUNT SHALL BE USED
8 ONLY FOR THE PURPOSE OF PROVIDING ASSISTANCE PURSUANT TO THIS SECTION AS
9 REQUESTED BY INCORPORATED CITIES AND TOWNS. THE ACCOUNT IS EXEMPT FROM THE
10 PROVISIONS OF SECTION 35-190, RELATING TO THE LAPSING OF APPROPRIATIONS.
11 INTEREST EARNED ON MONIES IN THE ACCOUNT SHALL BE CREDITED TO THE ACCOUNT.
12 THE ACCOUNT CONSISTS OF MONIES FROM THE FOLLOWING SOURCES:

13 1. MONIES TRANSFERRED FROM THE GRANT ACCOUNT ESTABLISHED PURSUANT TO
14 SECTION 49-1071, SUBSECTION A.

15 2. MONIES APPROPRIATED BY THE LEGISLATURE.

16 3. GIFTS, GRANTS OR DONATIONS.

17 B. FUNDS IN THE MUNICIPAL TANK CLOSURE AND CORRECTIVE ACTION PROGRAM
18 ACCOUNT SHALL BE USED BY THE DIRECTOR TO PERFORM PERMANENT CLOSURE ON
19 UNDERGROUND STORAGE TANKS AND REQUIRED CORRECTIVE ACTION ON RELEASES FROM
20 UNDERGROUND STORAGE TANKS DISCOVERED DURING THE PERMANENT CLOSURE ONLY TO THE
21 EXTENT THAT THE ACTIVITIES ARE NOT ELIGIBLE FOR OR WITHIN THE COVERAGE LIMITS
22 OF SECTION 49-1054. PERMANENT CLOSURE SHALL BE PERFORMED PURSUANT TO SECTION
23 49-1008 AND ANY REQUIRED CORRECTIVE ACTION SHALL BE PERFORMED PURSUANT TO
24 SECTION 49-1005 AND THE RULES ADOPTED PURSUANT TO THOSE SECTIONS. FUNDS FROM
25 THE MUNICIPAL TANK CLOSURE AND CORRECTIVE ACTION PROGRAM ACCOUNT MAY BE USED
26 FOR CLOSURE OF UNDERGROUND STORAGE TANKS THAT ARE NOT THE SOURCE OF A
27 RELEASE.

28 C. THE DIRECTOR SHALL PERFORM UNDERGROUND STORAGE TANK CLOSURE AND
29 REQUIRED CORRECTIVE ACTION PURSUANT TO THIS SECTION UNTIL FUNDS IN THE
30 MUNICIPAL TANK CLOSURE AND CORRECTIVE ACTION PROGRAM ACCOUNT ARE DEPLETED.
31 WHEN FUNDS IN THE MUNICIPAL TANK CLOSURE AND CORRECTIVE ACTION PROGRAM
32 ACCOUNT ARE DEPLETED, ALL UNDERGROUND STORAGE TANK CLOSURE AND REQUIRED
33 CORRECTIVE ACTION ACTIVITIES PERFORMED OR TO BE PERFORMED PURSUANT TO THIS
34 SECTION SHALL CEASE. THE DIRECTOR MAY CONTINUE TO PERFORM CORRECTIVE ACTION
35 PURSUANT TO SECTION 49-1017, SUBSECTION A ON RELEASES DISCOVERED DURING
36 PERMANENT CLOSURE UNDERTAKEN PURSUANT TO THIS SECTION.

37 D. CITIES AND TOWNS ARE ELIGIBLE FOR PARTICIPATION IN THE MUNICIPAL
38 TANK CLOSURE AND CORRECTIVE ACTION PROGRAM PURSUANT TO THIS SECTION IF BOTH
39 OF THE FOLLOWING CONDITIONS ARE SATISFIED:

40 1. THE INCORPORATED AREA OF A CITY OR TOWN HAS A POPULATION OF LESS
41 THAN FIFTEEN THOUSAND PERSONS.

42 2. THE PERSON WHO OWNS A PROPERTY OR THE PERSON WITH PRINCIPAL CONTROL
43 OF A PROPERTY OR AN UNDERGROUND STORAGE TANK THAT APPEARS ON THE LIST
44 REQUIRED BY SUBSECTION E, PARAGRAPH 1 OF THIS SECTION IS NOT AN OWNER OR
45 OPERATOR OF THE UNDERGROUND STORAGE TANK AND AN OWNER OR OPERATOR OF THE

1 UNDERGROUND STORAGE TANK CANNOT BE LOCATED PURSUANT TO SECTION 49-1017,
2 SUBSECTION A, PARAGRAPH 1.

3 E. A CITY OR TOWN THAT REQUESTS PARTICIPATION PURSUANT TO THIS SECTION
4 SHALL SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT THAT CONTAINS ALL OF THE
5 FOLLOWING:

6 1. A LIST OF EACH UNDERGROUND STORAGE TANK AND UNDERGROUND STORAGE
7 TANK SITE THAT MEETS THE REQUIREMENTS OF SUBSECTION D OF THIS SECTION THAT
8 IS TO BE CONSIDERED FOR ELIGIBILITY FOR CLOSURE ACTIVITIES UNDER THIS
9 PROGRAM. THE LIST SHALL IDENTIFY THE PROPERTY OWNER OR PERSON WITH CONTROL
10 OF THE PROPERTY OR UNDERGROUND STORAGE TANK, THE ADDRESS OF THE UNDERGROUND
11 STORAGE TANK SITE AND THE PERSON TO BE THE CONTACT WITH THE DEPARTMENT FOR
12 THE PROPERTY OWNER OR PERSON WITH CONTROL OF THE PROPERTY OR UNDERGROUND
13 STORAGE TANK.

14 2. A STATEMENT FROM THE CITY OR TOWN THAT AVAILABLE PUBLIC RECORDS
15 HAVE BEEN SEARCHED AND THE OWNER OR OPERATOR OF THE UNDERGROUND STORAGE TANK
16 ON THE LIST SUBMITTED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION CANNOT BE
17 LOCATED. A LIST OF THE SPECIFIC DOCUMENTS SEARCHED BY THE CITY OR TOWN SHALL
18 BE INCLUDED.

19 3. EVIDENCE THAT THE PROPERTY OWNER OR PERSON WITH CONTROL OF THE
20 PROPERTY OR THE UNDERGROUND STORAGE TANK HAS CONSENTED TO THE CLOSURE AND ANY
21 REQUIRED CORRECTIVE ACTION ASSOCIATED WITH THE UNDERGROUND STORAGE TANK AND
22 HAS GRANTED THE DEPARTMENT ACCESS TO THE UNDERGROUND STORAGE TANK SITE.

23 4. THE NAME, TELEPHONE NUMBER AND ADDRESS OF THE PERSON AT THE CITY
24 OR TOWN WHO WILL BE RESPONSIBLE FOR COORDINATING THE REQUEST WITH THE
25 DEPARTMENT.

26 5. A COMPLETED NOTIFICATION FOR UNDERGROUND STORAGE TANKS FORM FOR
27 EACH UNDERGROUND STORAGE TANK PROPOSED FOR CLOSURE UNDER THE PROGRAM.

28 F. THE DIRECTOR SHALL CONSIDER REQUESTS FROM CITIES AND TOWNS IN THE
29 ORDER RECEIVED BY THE DEPARTMENT. SUBJECT TO THE AVAILABILITY OF MONIES IN
30 THE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION AND THE
31 PRIORITIES ESTABLISHED BY THIS SUBSECTION, THE DIRECTOR SHALL SELECT THOSE
32 UNDERGROUND STORAGE TANK SITES WHERE PERMANENT CLOSURE AND REQUIRED
33 CORRECTIVE ACTION ON A RELEASE FROM AN UNDERGROUND STORAGE TANK ARE TO BE
34 PERFORMED. THE DEPARTMENT SHALL ISSUE A DETERMINATION TO THE CITY OR TOWN
35 MAKING THE REQUEST WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE
36 REQUEST. A DETERMINATION BY THE DIRECTOR PURSUANT TO THIS SECTION DOES NOT
37 CONSTITUTE AN APPEALABLE AGENCY ACTION AS DEFINED IN SECTION 41-1092. THE
38 DEPARTMENT SHALL REIMBURSE FROM THE ACCOUNT EACH CITY OR TOWN FOR THE ACTUAL
39 COSTS INCURRED IN PREPARING THE REQUEST SELECTED BY THE DIRECTOR PURSUANT TO
40 THIS SUBSECTION, BUT NOT MORE THAN FIFTEEN THOUSAND DOLLARS PER CITY OR TOWN,
41 REGARDLESS OF HOW MANY REQUESTS ARE MADE. THE DIRECTOR SHALL PRIORITIZE
42 THOSE UNDERGROUND STORAGE TANK SITES WHERE PERMANENT CLOSURE AND REQUIRED
43 CORRECTIVE ACTION ON RELEASES FROM THE UNDERGROUND STORAGE TANK MAY BE
44 PERFORMED, BASED ON ALL OF THE FOLLOWING CRITERIA:

1 1. COMPLIANCE OF THE SUBMITTED REQUEST BY THE CITY OR TOWN WITH THE
2 REQUIREMENTS OF SUBSECTIONS D AND E OF THIS SECTION.

3 2. RELEASES THAT POSE A THREAT TO HUMAN HEALTH, WELFARE AND THE
4 ENVIRONMENT IN THE AREA WHERE THE UNDERGROUND STORAGE TANK IS LOCATED.

5 3. THE REDUCTION OF THREAT TO HUMAN HEALTH, WELFARE AND THE
6 ENVIRONMENT FROM CLOSURE OF THE UNDERGROUND STORAGE TANK OR PERFORMANCE OF
7 CORRECTIVE ACTION ON A RELEASE FROM THE UNDERGROUND STORAGE TANK.

8 4. THE RELATIONSHIP BETWEEN RELEASES IN THE AREA AND THE UNDERGROUND
9 STORAGE TANK.

10 5. OTHER SITE-SPECIFIC CONDITIONS DETERMINED BY THE DIRECTOR.

11 G. ON THE DEPARTMENT'S COMPLETION OF CLOSURE PURSUANT TO
12 SECTION 49-1008 AND, IF REQUIRED, CORRECTIVE ACTION PURSUANT TO SECTION
13 49-1005 AND THE RULES ADOPTED PURSUANT TO THOSE SECTIONS, THE DIRECTOR SHALL
14 ISSUE A LETTER TO THE AFFECTED PERSONS AND THE CITY OR TOWN THAT THE
15 REQUIREMENTS WERE MET.

16 H. THE DIRECTOR SHALL NOT PROVIDE ANY COVERAGE, AND THE MUNICIPAL TANK
17 CLOSURE AND CORRECTIVE ACTION PROGRAM ACCOUNT IS NOT LIABLE, FOR COMPENSATING
18 THIRD PARTIES FOR BODILY INJURY OR PROPERTY DAMAGE CAUSED BY CLOSURE
19 ACTIVITIES, CORRECTIVE ACTION ACTIVITIES OR RELEASES FROM UNDERGROUND STORAGE
20 TANKS.

21 Sec. 2. Transfer of funds

22 Before December 31, 2001, the director of the department of
23 environmental quality shall transfer all unobligated funds remaining in the
24 grant account established pursuant to section 49-1071, Arizona Revised
25 Statutes, to the municipal tank closure and corrective action program account
26 established pursuant to section 49-1073, Arizona Revised Statutes, as added
27 by this act.

APPROVED BY THE GOVERNOR MAY 4, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2001.

Passed the House March 19, 2001

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

Jake Flake
Speaker of the House
Pro Tempore

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 26, 2001

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

Roderic S. Scott
President of the Senate

Charmian Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

H.B. 2611

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this day of , 20 ,

at o'clock M.

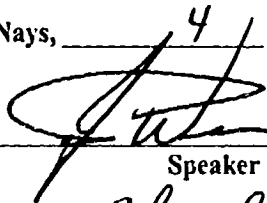
Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

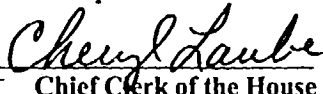
April 30, 2001,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting



Speaker of the House



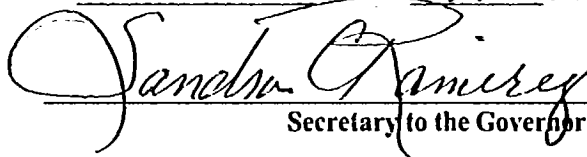
Assistant Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1 day of May, 2001,

at 9:00 o'clock A M.

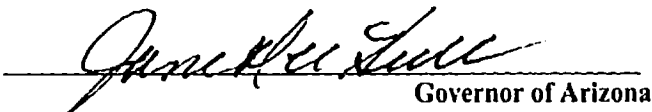


Secretary to the Governor

Approved this 4th day of

May, 2001,

at 10:54 o'clock A M.



Governor of Arizona

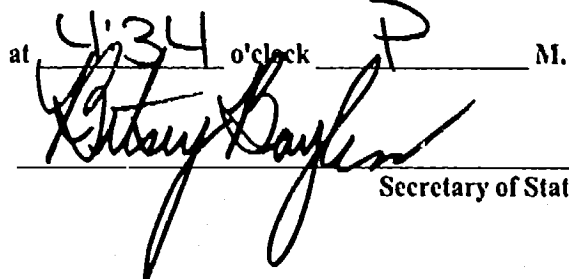
H.B. 2611

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of May, 2001,

at 4:34 o'clock P M.



Secretary of State